IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8227 OF 2006

Chetan Chandrakant Kadam .... Petitioners
& Anr.
Vs.

Mohanlal U. Bhatte & Anr. .... Respondents

Mr. Himanshu V. Kode for Petitioners
Mr. D.G. Aras i/b M/s Aras & Co. for Respondents

CORAM : S.A. BOBDE, J.
DATE : 6TH AUGUST, 2007

P.C.

1) Rule made returnable forthwith by consent of the parties.

2) The learned Trial Court has refused the permission to the Petitioners, who are the defendant Nos. 1a to 1d to examine the Defendant no. 2, as their witness.

3) According to the Trial Court, the Petitioners are not entitled to examine the defendant no. 2 / respondent no. 2 as a witness, because that defendant has not filed his written statement. The finding is completely un-warranted, as there is no reason why a party who has not filed

written statement cannot be examined as a witness by another party to the pending suit provided his evidence is relevant. In the circumstances, the impugned order dated 18/10/2006 and the order dated 5/6/2006 rejecting the revision application are set aside. The Trial Court is directed to permit the petitioners to call the Respondent no. 2 as a witness, as prayed for.

4) Rule is made absolute.

5) Petition stands disposed of.

(S.A. BOBDE, J.)